

arguments previously made in Paper No. 14, but attempt to limit their remarks to those most recently raised in Paper No. 15.

Support for use of a vertical form and fill machine (VFFM) is found in the drawings. FIGURES 7, 16-18, 20-22 and 27-28, disclose a VFFM as is well known in the art.

Paper No. 15 states that "it is not clear how 'different' food items are being defined". Reference is made to the definition of the phrase "maintaining individual product identity" found in each of the claims. This definition (found at the bottom of page 7 of the specification) explains that two or more different food items found in the same package are addressed, which are present in discreet phases such that "each of the separate food items may be visually discerned at the surface of the food portion by the consumer".

The claims now specifically recite that the different food items are in physical contact with each other to form the composite food portion. They also recite that the food items are gels, cohesive, and manually removeable from the film. "Cohesive" means that the composite food product may be handled, the wrapper may be removed, and the product held, manipulated, eaten or applied as a spread, for example, using the fingers and without the product disintegrating or deteriorating in an unsightly or unusable manner (see the specification portion bridging pages 11-12).

The step of adding sugar syrup (see definition of "sugar" at page 9 of the original specification) is now recited in independent Claims 40 and 63, which involve the continuous formation of a nut butter/jelly composite food portion. Corn syrup is specifically recited in dependent Claims 78 and 79.

Regarding the combination rejection of Ahad in light of Brna or vice versa, in addition to other cited references, Brna is said to disclose that products may be combined to form composite slices (Paper No. 13, page 3, lines 4-6, citing col. 4, para. 3 of Brna). In the referenced paragraph, Brna states that "meat emulsions of different composition may be processed together to provide unitary processed meat slices having various geometries, such as multiple layers or zones combined to provide a unitary product having variegated appearance and/or flavor". It is also stated there that "[o]ther products, such as processed cheese, may also be combined in such composite slices". However, there is no indication in Brna as to how this might be done. As previously explained, Ahad uses a different approach, rather than the VFFM and extrusion process claimed here, while the other cited references teach away, as explained immediately below.

The remaining references teach away from a continuous process as claimed by the present invention. Thus, Bogdan, May and Chenn each disclose the formation of food slices using static, mold forming processes (e.g., column 4, line 27 of Bogdan: "Molten jelly is poured into the first mold... the first jelly layer 17 is cooled or chilled until it solidifies."; e.g., column 4, line 6: "The gelled solution is poured into a ... container....; e.g., Claim 13 of Chenn, describing use of a mold).

Additionally, various independent claims recite either "combining the food items into a predetermined food portion using a portion control method that varies the extrusion speed based on an amount of the food portion present" (Claims 1, 38, 40 and 60), or "briefly maintaining separation of the different food items following extrusion and prior to the formation of the web

**ATTORNEY
DOCKET NO. 3248**

into a slice-shaped, composite food portion using one or more divider plates" (Claims 14 and 60). Within the context of this invention, these limitations are not believed disclosed in the prior art, either.


In addition, Applicants see no teaching or disclosure in the cited prior art of the specific food formulations for nut butter/jelly combinations, or the hardness therefor, as recited in Claims 9-13 and 30-31.

Applicants appreciate this opportunity afforded by the Examiner to provide these supplemental remarks. For the foregoing reasons, Applicants respectfully suggest that the pending claims are patentable over the cited prior art of record and requests an allowance thereof.

If the next written communication is intended to be other than a notice of allowance of the claims, Applicants request that the undersigned be contacted to discuss this case prior to the mailing of such communication.

Respectfully submitted,

Dated: April 11, 2003


Michael P. Mazza
Registration No. 34,092
Michael P. Mazza, LLC
686 Crescent Blvd.
Glen Ellyn, IL 60137
Phone: 630-858-5071
Fax: 630-858-0373
e-mail: mazza@mazzallc.com

Attorney for Applicants